

**REMARKS**

**Drawings:**

Applicant thanks the Examiner for indicating that the drawings filed on May 7, 2003 have been approved.

**Election/Restriction:**

Applicant acknowledges the indication that claims 18-31, 34, 35, 38 and 39 have been withdrawn from consideration as being constructively withdrawn because of the election made June 12, 2002.

**Allowable Subject Matter:**

Applicant sincerely thanks the Examiner for indicating that claims 32, 33, 36 and 37 have been allowed, and that although claims 3-5 and 14-17 have been objected to, these claims would also be allowable, if written in independent form.

As such, Applicant has written claims 3 and 14 in independent form, as shown in the previous section. Therefore, claims 3-5 and 14-17 are now also in allowable condition.

Applicant notes that claims 3 and 14 were written in independent form as they existed in the originally filed application, and do not include any of the subsequent amendments made to claim 1 during prosecution of the present application. Applicant notes that in the first Office Action on the merits, dated August 22, 2002, page 9, the Examiner indicated that originally filed claims 3 and 14 contained allowable subject matter. Therefore, the originally filed claims 3 and 14, have been written in independent form, and do not include any of the amendments to claim 1 made during prosecution. The amendments to claims 2 and 13 have been incorporated.

**Claim Rejections:**

Claims 1-39 are all the claims pending in the present application, of which only claims 1-17, 32-33 and 36-37 have been examined, and currently claims 1, 2 and 6-13 stand rejected.

***35 U.S.C. § 102(b) Rejection - Claims 1 and 6:***

Claims 1 and 6 remain rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,684,626 to Greenberg. In view of the following discussion, Applicant respectfully traverses the above rejection.

Greenberg '626 discloses a device to magnify an image of a sample. The device includes a single light source **40** which emits a beam of light **10** through a condensor lens **11**. After the light **10** exits the condensor lens **11**, it converges at a point **I**. Additionally, at the point **I** a sample **14** is positioned such that the "beam **10**, from [the] light source **40**, illuminates the condensor **11** which focuses the light onto an object (specimen) **14**." Greenberg '626 Col. 4, lines 14-16. Thus, it is clear from this disclosure that the light from the light source does not converge at a point after the specimen or sample, as required by claim 1, but is focused on the sample **14**. Therefore, Greenberg '626 fails to disclose each and every feature of the claimed invention.

Applicant does note that that the light **10** does converge at a second point **I<sub>1</sub>** which is after the sample **14**. However, this point **I<sub>1</sub>** is not positioned before the objective lens **12**, as required in the present invention.

In view of the foregoing, Applicant notes that Greenberg '626 fails to disclose each and every feature of the claimed invention, as set forth in claim 1. Therefore, Greenberg '626 fails to

anticipate the claimed invention under the provisions of 35 U.S.C. § 102(b), and Applicant hereby requests the Examiner reconsider and withdraw the above rejection of this claim.

Further, as claim 6 depends on claim 1, Applicant submits that this claim is also allowable, at least by reason of its dependence.

***35 U.S.C. § 103(a) Rejection - Claim 2:***

Claim 2 remains rejected under 35 U.S.C. § 103(a) as being unpatentable over Greenberg '626 in view of the previously applied Shimada reference. However, as this claim depends on claim 1, and Shimada fails to cure the deficient teachings of the Greenberg '626 reference, Applicant submits that claim 2 is also allowable, at least by reason of its dependence.

***35 U.S.C. § 103(a) Rejection - Claims 7-12:***

Claims 7-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Greenberg '626 in view of the previously applied Ellis reference. However, as these claims depend on claim 1, and Ellis fails to cure the deficient teachings of the Greenberg '626 reference, Applicant submits that these claims are also allowable, at least by reason of their dependence.

***35 U.S.C. § 103(a) Rejection - Claim 13:***

Claim 13 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Greenberg '626 in view of Ellis in further view of Shimada. However, as this claim depends on claim 1, and Ellis and Shimada fail to cure the deficient teachings of the Greenberg '626 reference, Applicant submits that claim 13 is also allowable, at least by reason of its dependence.

AMENDMENT UNDER 37 C.F.R. § 1.111  
U.S. Application No.: 09/810,523

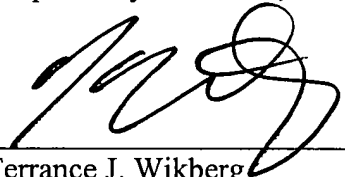
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**Conclusion:**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

  
A handwritten signature in black ink, appearing to read 'Terrance J. Wikberg', is written over a horizontal line.

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